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IMPLEMENTATION OF THE PROGRAMME ON TRANSNATIONAL CORPORATIONS AND CONSIDERATION OF FUTURE ACTIVITIES OF THE COMMISSION

Technical assistance for a new South Africa

Report by the UNCTAD secretariat

SUMMARY

With the dawn of a new era in South Africa, the UNCTAD Programme on Transnational Corporations has identified a number of possible technical cooperation activities which could contribute towards the creation of a more dynamic and equitable society. These activities focus on foreign investment and related matters, including legislative reviews, diagnostic and policy studies, and training and capacity-building.

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CONTENTS

	Paragraphs	Page
INTRODUCTION	1	3
I. PROPOSED PROGRAMME OF TECHNICAL COOPERATION, 1994-1996	2 - 14	3
A. Rationale	2 - 5	3
B. Work programme	6 - 14	4
1. Reviews of existing legislation	8 - 9	4
2. Diagnostic and policy studies	10	4
3. Training and human resources development	11 - 13	5
4. Expected impact	17	5

INTRODUCTION

1. Since 1985 the Programme on Transnational Corporations has been reporting on the impact of sanctions and, more recently, on general socio-economic developments in South Africa. When the elections, based on universal adult suffrage, are held in April 1994 and the anticipated Government of national unity is in place, a new era will have begun. It is therefore timely to present for consideration the major features of a possible technical cooperation programme on investment and related matters designed to suit the needs of a new South Africa.

I. PROPOSED PROGRAMME OF TECHNICAL COOPERATION, 1994-1996

A. Rationale

2. There are two major problems facing a new South Africa. One is how to redress the gross socio-economic injustices and distortions resulting from the legacy of apartheid. The other is how to make that country once more a full and competitive member of the world economic community.

3. The non-white population of South Africa will need a massive infusion of assistance in order to be able to overcome the deprivations imposed by decades of racial discrimination, and to acquire the necessary training and skills for effective participation in the economic and political life of their country. The most urgent assistance would obviously be programmes of emergency relief on pressing human needs in the areas of health, nutrition, housing and social welfare. But these must be accompanied by medium- to long-term policy-making and capacity-building programmes if the new South Africa is to be able to tackle the root causes of these socio-economic problems on a more permanent basis.

4. The complete elimination of socio-economic disparities that are the legacy of apartheid will undoubtedly require many years. A democratically elected, non-racial government in the new South Africa needs assistance from the United Nations system in the areas of planning, policy-making and human resources development if it is to be able to begin to address the root causes of these problems. Such assistance is crucial in view of the limited educational opportunities previously available to non-whites under apartheid, coupled with their deliberate exclusion from governmental machinery except within the subservient structures of the so-called "bantustans" and homelands.

5. In addition, South Africa's industrial structure, which has been based on political isolation, import substitution and strategic self-sufficiency, needs transforming into an internationally competitive, export led manufacturing sector. Its natural resource sectors also need to become more productive and cost efficient. Foreign investment policy reform could make a positive contribution to both the socio-economic and industrial reform objectives. The following programme of technical assistance, arrived at after a process of consultations, addresses some of these issues.

B. Work programme

6. The first technical assistance activity undertaken at the request of the African National Congress (ANC), namely, the preparation of policy guidelines on foreign investment in post-apartheid South Africa, was achieved with the submission in January 1992 of a draft policy statement, entitled "Policies Towards Foreign Investment for a Future Democratic Government in South Africa". Beyond that, a series of policy-oriented studies on selected sectors of the South African economy, reviews of existing investment-related legislation, and training seminars and workshops for ANC personnel, are envisaged.

7. In the meantime, the ANC has instituted a network of researchers in a number of South African universities, and some of the topics that were to be addressed under the UNCTAD programme are being addressed by researchers in South Africa. In the light of this, the policy research expected from UNCTAD has been reduced to a smaller number of topics. To these must be added the reviews of existing legislation, as well as the organization of training programmes in response to specific needs.

1. Reviews of existing legislation

8. There will be reviews of specific investment-related legislation in South Africa with a view to recommending future modifications. Such reviews will take account of the broad socio-economic objectives of the new South Africa, as well as of global trends relevant to the subject-matter under review. Particular attention will be paid to the need to provide legal backing for affirmative action and entrepreneurship programmes for previously disadvantaged sectors of the South African population.

9. As appropriate, reviews are to be undertaken by teams of international and South African legal experts. Such teams are to be established by consultation between UNCTAD and the counterpart organization in South Africa.

2. Diagnostic and policy studies

10. There will be a series of policy-oriented diagnostic studies on selected priority areas or issues of the South African economy. These studies are intended to lead to policy recommendations for consideration in the formulation of overall economic and investment policies for post-apartheid South Africa. The following topics are envisaged at this stage, although different or additional topics may be undertaken as priorities change and the situation in South Africa evolves:

(a) The tax regime in South Africa in relation to foreign investment, including the control of transfer pricing;

(b) The regulation of the mining industry in South Africa;

(c) Foreign direct investment in the banking and financial system in South Africa;

(d) South Africa's regional economic relations, i.e., trade and investment relations with the countries of the Southern African Development Conference (SADC) and the Preferential Trade Area (PTA);

(e) Anti-trust and anti-monopoly policy and legislation for post-apartheid South Africa;

(f) Environmental protection standards and legislation in the context of investment policy for post-apartheid South Africa;

(g) Affirmative action programmes and the promotion of entrepreneurship among previously disadvantaged sections of the South African population.

3. Training and human resources development

11. The project will also undertake a series of seminars and workshops based on the legislative reviews and policy-studies projects in order to afford an opportunity for the exchange of views between the South African participants and international experts on the relevant subjects. It is expected that these topics will deal with key issues in foreign investment policy and regulation, investment negotiations, and private-sector development. To ensure thorough preparation and maximum benefits to participants, there will be no more than two seminars or workshops each year.

12. In addition, provision will be made for South African personnel to attend courses on investment and regulatory issues at relevant educational or research institutions, as well as for attachments, internships or study tours to selected regulatory agencies in other countries or to relevant international organizations.

13. The project is to be managed by a project officer or adviser based in UNCTAD. A project coordinator or technical adviser based in South Africa may also be appointed to liaise with UNCTAD and to manage day-to-day project activities there. Project teams comprising staff members of UNCTAD, South African personnel and researchers, and international experts in the capacity of consultants, are to be established to carry out the various activities envisaged under the project.

4. Expected impact

14. The technical cooperation programme described above is expected to make a significant contribution towards helping South Africa to utilize and realize the full potential of all its people and resources for attracting foreign investment, under equitable socio-economic terms and conditions, thereby allowing that country to benefit from a fuller integration into the modern world economy. In doing so, the programme is expected to increase the skill and entrepreneurial capacity of that part of the population that was historically disadvantaged.